

Atty Kruthers, Heather H., of County Counsel's Office (for Public Guardian, Conservator)

Probate Status Hearing RE: Accounting

		NEEDS/PROBLEMS/COMMENTS: OFF CALENDAR <i>Order Settling Seventh Account Current, etc., was signed 1/30/2013.</i>	
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.		<input type="checkbox"/>
<input type="checkbox"/>	Verified		<input type="checkbox"/>
<input type="checkbox"/>	Inventory		<input type="checkbox"/>
<input type="checkbox"/>	PTC		<input type="checkbox"/>
<input type="checkbox"/>	Not.Cred.		<input type="checkbox"/>
<input type="checkbox"/>	Notice of Hrg		<input type="checkbox"/>
<input type="checkbox"/>	Aff.Mail		<input type="checkbox"/>
<input type="checkbox"/>	Aff.Pub.		<input type="checkbox"/>
<input type="checkbox"/>	Sp.Ntc.		<input type="checkbox"/>
<input type="checkbox"/>	Pers.Serv.		<input type="checkbox"/>
<input type="checkbox"/>	Conf. Screen		<input type="checkbox"/>
<input type="checkbox"/>	Letters		<input type="checkbox"/>
<input type="checkbox"/>	Duties/Supp		<input type="checkbox"/>
<input type="checkbox"/>	Objections		<input type="checkbox"/>
<input type="checkbox"/>	Video Receipt		<input type="checkbox"/>
<input type="checkbox"/>	CI Report		<input type="checkbox"/>
<input type="checkbox"/>	9202		<input type="checkbox"/>
<input type="checkbox"/>	Order		<input type="checkbox"/>
<input type="checkbox"/>	Aff. Posting		<input type="checkbox"/>
<input type="checkbox"/>	Status Rpt		<input type="checkbox"/>
<input type="checkbox"/>	UCCJEA		<input type="checkbox"/>
<input type="checkbox"/>	Citation		<input type="checkbox"/>
<input type="checkbox"/>	FTB Notice		<input type="checkbox"/>
		Reviewed by: LEG	
		Reviewed on: 3/13/13	
		Updates:	
		Recommendation:	
		File 1 - Leslie	

(1) Report of Administration of Insolvent Estate and (2) Petition for Surcharge and
(3) Distribution [Prob. C. 9600 et seq; 11600]

DOD: 3-17-02		PUBLIC ADMINISTRATOR , Administrator with Will Annexed, is Petitioner.	NEEDS/PROBLEMS/COMMENTS:
		Account period: 7-18-12 through 1-3-13	History:
		Accounting: \$0	<ul style="list-style-type: none"> Mary Louise Patten was appointed Executor with Full IAEA without bond on 7-23-02.
		Beginning POH: \$0	<ul style="list-style-type: none"> I&A filed 7-23-02 by the former Executor indicated a total estate value of \$141,559.24 at date of death, which consisted of \$45,059.24 cash plus real property, personal property, and a vehicle.
		Ending POH: \$0	<ul style="list-style-type: none"> The real property was sold for \$120,000.00 pursuant to Order Confirming Sale of Real Property filed 4-15-04.
		Successor Administrator (Statutory): Waived	<ul style="list-style-type: none"> Nothing further happened in the estate happened until 5-8-12, when the Court set a status hearing for failure to file a petition for final distribution.
		Attorney (Statutory): Waived	<ul style="list-style-type: none"> At hearing on 6-19-12, Ms. Patten did not appear. The Court on its own motion removed Ms. Patten as Executor and appointed the Public Administrator.
		Petitioner states that given the unnecessary delay in filing the proper account and distribution, and the improper withholding of estate assets, Petitioner requests the Court make an order surcharging the previous executor MARY LOUISE PATTEN in the amount of \$157,834.62 as follows:	<ul style="list-style-type: none"> Status Report filed 11-27-12 by Public Administrator states Deputy Public Administrator spoke with Ms. Patten, who indicated that there had been \$65,000.00 left, but it was all gone, and she could not account for how it was spent.
		<ul style="list-style-type: none"> 50% of estate assets: \$79,679.62 (cash \$45,059.57, personal property \$1,500.00, sale proceeds of real property less commission \$112,800.00) 	<ol style="list-style-type: none"> Notice of Hearing was sent to Bobby Ray Smith II at the office of his attorney, Gary Bagdasarian; however, direct notice is required pursuant to Cal. Rules of Court 7.51 and Probate Code §1214.
		<ul style="list-style-type: none"> 10% per Annum interest: \$71,482.00 (4-15-04 to 11-15-12) 	
		<ul style="list-style-type: none"> Sanction of \$500.00 issued 7-31-12 	
		<ul style="list-style-type: none"> Attorney's Fees incurred by Bobby Ray Smith, Beneficiary: \$6,173.00 (Declaration of Gary Bagdasarian filed 9-28-12, 3-18-13) 	
		Petitioner prays that:	
		1. The final account prepared herewith be settled, allowed and approved as filed, and all acts and proceedings of Petitioner as Successor Administrator be confirmed and approved;	
		2. The Court surcharge Mary Louise Patten, former Executor, the sum of \$157,834.62; and	
		3. For such other and further orders as the Court deems just and proper.	
			Reviewed by: skc
			Reviewed on: 3-12-13
			Updates: 3-18-13
			Recommendation:
			File 2 - Smith

Atty Iversen, Judy K

Atty Marderosian, Michael G.

**Amended Notice of Motion and Motion to Compel Respondent's Further Response
to Petitioners' Demand for Production of Documents and Inspection of Things or for
an In Camera Inspection of Documents and Sanctions**

Age:		NEEDS/PROBLEMS/COMMENTS:
DOD:		
Cont. from 022013		
Aff.Sub.Wit.		
Verified		
Inventory		
PTC		
Not.Cred.		
Notice of Hrg		
Aff.Mail		
Aff.Pub.		
Sp.Ntc.		
Pers.Serv.		
Conf. Screen		
Letters		
Duties/Supp		
Objections		
Video Receipt		
CI Report		
9202		
Order		
Aff. Posting		
Status Rpt		
UCCJEA		
Citation		
FTB Notice		
		<p><u>Note:</u> Examiner Notes will not be prepared for this matter.</p> <p><u>Note:</u> The Court will also address the At-Issue Memorandum filed by Mr. Marderosian and Counter At-Issue Memorandum filed by Ms. Iversen at this hearing.</p>
		Reviewed by: skc
		Reviewed on: 2-15-13
		Updates:
		Recommendation:
		File 3 – Iversen

(1) First Account Current and Report of Conservator and (2) Petition for Allowance of Compensation to Conservator and Attorney [Prob. C. 2620; 2623, 2630; 2942]

Age: 84	PUBLIC GUARDIAN , Conservator, is petitioner.		NEEDS/PROBLEMS/COMMENTS: 1. Disbursement Schedule shows there are withdrawals from 01/31/2012 through 02/13/2012 from the Bank of America checking account totaling \$1,282 without the nature and purpose for the those withdrawals. Need clarification. Note: A Status hearing will be set as follows: <ul style="list-style-type: none"> Friday, 03/20/2015 at 9:00am in Dept. 303 for the filing of the 2nd Account. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.
	Account Period: 01/04/2012 – 01/14/2013		
Cont. from	Accounting - \$220,194.90 Beginning POH - \$179,500.04 Ending POH - \$182,595.06 (\$3,095 is Cash)		
<input type="checkbox"/> Aff.Sub.Wit.			
<input checked="" type="checkbox"/> Verified			
<input type="checkbox"/> Inventory			
<input type="checkbox"/> PTC			
<input type="checkbox"/> Not.Cred.	Conservator - \$9,345.44 (35.08 Deputy Hours @ \$96/hr and 69.22 Staff Hours @ \$76/hr)		
<input checked="" type="checkbox"/> Notice of Hrg			
<input checked="" type="checkbox"/> Aff.Mail	w/	Attorney - \$2,500.00 (Per Local Rule)	
<input type="checkbox"/> Aff.Pub.			
<input type="checkbox"/> Sp.Ntc.	Bond fee - \$125.67 (o.k.)		
<input type="checkbox"/> Pers.Serv.	Court fees - \$707.00		
<input type="checkbox"/> Conf. Screen	Petitioner request that due to the insufficiency of the estate to pay the fees and commission that a lien be imposed upon the estate for an unpaid balances of the authorized fees and commissions.		
<input type="checkbox"/> Letters			
<input type="checkbox"/> Duties/Supp			
<input type="checkbox"/> Objections			
<input type="checkbox"/> Video Receipt			
<input type="checkbox"/> CI Report			
<input type="checkbox"/> 9202			
<input checked="" type="checkbox"/> Order	Petitioner prays for an Order: <ol style="list-style-type: none"> Approving, allowing and settling the first account. Authorizing the conservator and attorney fees and commissions. Payment of the bond fee. Authorize petitioner to impose a lien on the estate for any unpaid balances of authorized fees and commissions. 		
<input type="checkbox"/> Aff. Posting			
<input type="checkbox"/> Status Rpt			
<input type="checkbox"/> UCCJEA			
<input type="checkbox"/> Citation			
<input type="checkbox"/> FTB Notice			

Reviewed by: LV
Reviewed on: 03/13/2013
Updates:
Recommendation:
File 4 - Sager

(1) First and Final Account and Report of Successor Trustee and (2) Petition for Allowance of Compensation to Trustee and Attorney and (3) for Distribution

			PUBLIC ADMINISTRATOR , Trustee, is petitioner.	NEEDS/PROBLEMS/COMMENTS: 1. Petition proposes to distribute 100% of the property on hand to the Deborah Ann Schroer Special Needs Trust. However the Trust Instrument devises 80% of the proceeds from the sale of the real property to the Settlor's son, Dean Scott Schroer, if he survives. Settlor died on August 11, 2003 and her son, Dean died on May 18, 2009. Because Dean survived the Settlor his estate would be entitled to 80% of the property on hand. 2. Need declaration of trustee, Bruce Bickel, pursuant to Local Rule 7.12.5.
			Account period: 5/1/12 – 10/19/12	
Cont. from			Accounting - \$90,000.00	
	Aff.Sub.Wit.		Beginning POH - \$90,000.00	
✓	Verified		Ending POH - \$73,776.74	
	Inventory		Trustee - \$3,600.00 (statutory)	
	PTC		Trustee x/o - \$1,248.00 (for sale of real property and preparation of taxes)	
	Not.Cred.		Attorney - \$3,600.00 (statutory)	
✓	Notice of Hrg		Bond - \$112.50 (o.k.)	
✓	Aff.Mail	W/	Court fees - \$395.00 (filing fee)	
	Aff.Pub.		Petitioner prays for an Order:	
	Sp.Ntc.		1. Approving, allowing and settling the first and final account;	
	Pers.Serv.		2. Authorizing Petitioner and his attorney \$3,600.00 each as compensation for their services;	
	Conf. Screen		3. Petitioner be allowed extraordinary commissions of \$1,248.00;	
	Letters		4. Authorizing bond fee of \$112.50 and filing fee of \$395.00	
	Duties/Supp		5. Authorizing distribution of the remaining property on hand consisting of \$64,386.24 to Bruce Bickel as Trustee of the Deborah Ann Schroer Special Needs Trust.	
	Objections			
	Video Receipt			
	CI Report			
	9202			
✓	Order			
	Aff. Posting			
	Status Rpt			
	UCCJEA			
	Citation			
	FTB Notice			

Reviewed by: KT
Reviewed on: 3/12/13
Updates:
Recommendation:
File 5 - Schroer

Petition for Determination of Entitlement

DOD: 6/27/12		<p>PUBLIC ADMINISTRATOR, Administrator, is Petitioner.</p> <p>On 8/15/2012 Petitioner was appointed Administrator. The Order appointing authorized Petitioner to distribute any assets in accordance with Decedent's Will dated 9/21/1990. The distribution was to be made to his son, John C. Broome II, aka Jack Jackson.</p> <p>On 10/30/2012 attorney David Knudson faxed to attorney Heather Kruthers a copy of an alleged 2005 holographic Will. It is unknown where the original is. This Will made distributions of \$1 to each of his three children (John, Derek, and Stephanie), and the remainder of his estate to his wife (now ex-wife). The decedent and his wife divorced <u>after</u> the Will was executed. Pursuant to Probate Code §6122, a "dissolution ... revokes all of the following: (1) Any disposition or appointment of property made by the will to the former spouse." If the 2005 Will is found by the Court to be valid, the decedent's three children, by intestate succession, would receive his full estate.</p> <p>Administration of the estate will close soon. Therefore, Petitioner seeks instructions as to whom distribution of the estate should be made. Following the 1990 Will would result in John C. Broome, II, aka Jack Jackson to receive the entire estate. Following the 2005 Will would result in the three children, John, Derek and Stephanie to share the entire estate. Petitioner asserts that due to the decedent's dissolution, his ex-wife, Fanny Broome, is not entitled to nay share of his estate, regardless of which will his upheld.</p> <p>Petitioner prays for an order directing distribution of the decedent's estate.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>Note: Petition states an order will be submitted once a ruling is issued.</p>				
Cont. from							
	Aff.Sub.Wit.						
✓	Verified						
	Inventory						
	PTC						
	Not.Cred.						
✓	Notice of Hrg						
✓	Aff.Mail			W/			
	Aff.Pub.						
	Sp.Ntc.						
	Pers.Serv.						
	Conf. Screen						
	Letters						
	Duties/Supp						
	Objections						
	Video Receipt						
	CI Report						
	9202						
	Order			X			
	Aff. Posting						
	Status Rpt						
	UCCJEA						
	Citation						
	FTB Notice						
<table border="1"> <tr> <td>Reviewed by: KT</td> </tr> <tr> <td>Reviewed on: 3/12/13</td> </tr> <tr> <td>Updates:</td> </tr> <tr> <td>Recommendation:</td> </tr> <tr> <td>File 6 - Broome</td> </tr> </table>			Reviewed by: KT	Reviewed on: 3/12/13	Updates:	Recommendation:	File 6 - Broome
Reviewed by: KT							
Reviewed on: 3/12/13							
Updates:							
Recommendation:							
File 6 - Broome							

DOD: 01/15/13		PAMELA S. GRIGGS , friend/nominated Executor without bond, is Petitioner. Full IAEA – OK Will dated 10/12/01 Residence: Fresno Publication: The Business Journal	NEEDS/PROBLEMS/COMMENTS:
Cont. from			
	Aff.Sub.Wit.		
✓	Verified		
	Inventory		
	PTC		
	Not.Cred.		
✓	Notice of Hrg	<u>Estimated Value of the Estate:</u> Personal property - \$ 2,900.00 Real property - 58,800.00 Total - \$61,700.00 Probate Referee: RICK SMITH	
✓	Aff.Mail w/		
✓	Aff.Pub.		
	Sp.Ntc.		
	Pers.Serv.		
	Conf. Screen		
✓	Letters		
✓	Duties/Supp		
	Objections		
	Video Receipt		
	CI Report		
	9202		
✓	Order		
	Aff. Posting		
	Status Rpt		
	UCCJEA		
	Citation		
	FTB Notice		

Age: 16 years		MICHELE GUERRERO , guardian, is petitioner.	NEEDS/PROBLEMS/COMMENTS:
		MICHELE GUERRERO was appointed guardian on 8/23/12.	
		Father: ROBERT DELACRUZ – deceased.	
Cont. from			
<input type="checkbox"/>	Aff.Sub.Wit.	Mother: VIKKI PHILLIPS	
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory	Paternal grandfather: John DeLaCruz – deceased.	
<input type="checkbox"/>	PTC	Paternal grandmother: Rita McCoy	
<input type="checkbox"/>	Not.Cred.	Maternal grandfather: Unknown	
<input checked="" type="checkbox"/>	Notice of Hrg	Maternal grandmother – Deceased.	
<input checked="" type="checkbox"/>	Aff.Mail	W/O Petitioner states the minor has returned to live with his mother.	
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.	Court Investigator Charlotte Bien's Report filed 3/8/13	
<input type="checkbox"/>	Pers.Serv.		
<input type="checkbox"/>	Conf. Screen		
<input type="checkbox"/>	Letters		
<input type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: KT
			Reviewed on: 3/13/13
			Updates:
			Recommendation:
			File 8 - DeLaCruz

Age: 2		<u>Temporary Expires 03/20/2013</u>		NEEDS/PROBLEMS/COMMENTS:	
		LUCY L. OCHOA , Paternal Grandmother, is Petitioner.		Minute Order of 01/30/2013: The Court orders that Robert Ochoa vacate the Petitioner's residence within 30 days. The Court Investigator is ordered to conduct a further investigation after 30 days to ensure that Robert Ochoa is no longer residing in the Petitioner's home. Veronica Gonzales is directed to provide the investigator copies of any restraining orders or documents she wishes the Court to consider at the next hearing.	
Cont. from 010913, 013013		Father: ROBERT OCHOA , Consents and Waives Notice			
	Aff.Sub.Wit.	Mother: VERONICA GONZALES , Declaration of Due Diligence filed 11/13/2012			
✓	Verified	Paternal Grandfather: Reynoldo Ochoa			
	Inventory	Maternal Grandfather: Steven Gonzales			
	PTC	Maternal Grandmother: Peggy Sue Jimenez			
	Not.Cred.	Petitioner states the father is currently incarcerated and the mother is in and out of the child's life. She has been gone over 5½ months. Petitioner states she has cared for and supported the minor since she was born. The mother abuses drugs and has been arrested three times in the last few months.			
	Notice of Hrg	x			
	Aff.Mail	x			
	Aff.Pub.				
	Sp.Ntc.			Minute Order of 01/09/2013: Mother, Veronica Gonzales, objects to the petition. Mother is directed to meet with Court Investigator Jennifer Young forthwith.	
	Pers.Serv.	x			
✓	Conf. Screen				
✓	Letters				
✓	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
✓	Order				
	Aff. Posting			The following issues still remain. <ol style="list-style-type: none"> 1. Need Notice of Hearing. 2. Need proof of personal service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver of notice for: <ul style="list-style-type: none"> • Veronica Gonzales (Mother) Note: Declaration of Due Diligence filed 11/13/2012 states unable to locate mother by phone and address.	
	Status Rpt				
✓	UCCJEA				
	Citation				
	FTB Notice				
		Court Investigator Jennifer Young's report filed 01/02/2013.		Please see additional page	
		Court Investigator Jennifer Young's Supplemental Report filed 01/25/2013.		Reviewed by: LV	
		Court Investigator Jennifer Young's Supplemental Report filed 03/14/2013.		Reviewed on: 03/14/2013	
				Updates: 03/15/2013	
				Recommendation:	
				File 9 - Ochoa	

Needs/Problems/Comments (continued)

3. Need proof of service fifteen (15) days prior to the hearing of the Notice of Hearing along with a copy of the Petition for Appointment of Guardian or consent and waiver or declaration of due diligence for:
 - Steven Gonzales (Maternal Grandfather)
 - Peggy Sue Jimenez (Maternal Grandmother)

Age: 10		GENERAL HEARING 5-7-13	NEEDS/PROBLEMS/COMMENTS:
		NICOLE MCGUIRE , Cousin of Father, is Petitioner.	<ol style="list-style-type: none"> Petitioner's Request to Waive Court Fees was denied on 3-6-3. Need filing fees of \$265.00. If diligence is not found, need Notice of Hearing and proof of personal service at least five Court days prior to the hearing on the mother, Kris O'Bannon. The Child Information Attachment is incomplete at Page 5 regarding the Indian Child Inquiry. Need declaration with this page attached.
		Father: MATTHEW GIBSON - Consents and waives notice	
		Mother: KRIS O'BANNON	
		Paternal Grandfather: Not listed Paternal Grandmother: Pam Garcia - Consents and waives notice	
		Maternal Grandfather: Not listed Maternal Grandmother: Not listed	
		Half-Siblings: Chance Gibson, Tim O'Bannon, Josh Ryan, Jacob Ryan (ages not provided)	
		Petitioner states the father is not in a mental state to care for the child. The child is currently with the father's girlfriend, however, she has to move and is unaware of how long or if she can keep the child. Petitioner states they are trying to keep him with her so he doesn't have to switch schools, however, if she can't keep him Petitioner would need to be able to move him to a school in her area.	
		Petitioner states she has talked to the parents but they won't tell her where they are. The father left five weeks ago without telling anyone. The mother only has visitation rights, but does not see the child regularly. She has called from various numbers but does not return calls or messages.	
		Petitioner provides a Family Law custody order filed 9-3-10 that provides that the father has sole legal and physical custody and the mother has visitation on weekends.	
<input type="checkbox"/>	Aff.Sub.Wit.		
<input checked="" type="checkbox"/>	Verified		
<input type="checkbox"/>	Inventory		
<input type="checkbox"/>	PTC		
<input type="checkbox"/>	Not.Cred.		
<input type="checkbox"/>	Notice of Hrg	X	
<input type="checkbox"/>	Aff.Mail		
<input type="checkbox"/>	Aff.Pub.		
<input type="checkbox"/>	Sp.Ntc.		
<input type="checkbox"/>	Pers.Serv.	X	
<input checked="" type="checkbox"/>	Conf. Screen		
<input checked="" type="checkbox"/>	Letters		
<input checked="" type="checkbox"/>	Duties/Supp		
<input type="checkbox"/>	Objections		
<input type="checkbox"/>	Video Receipt		
<input type="checkbox"/>	CI Report		
<input type="checkbox"/>	9202		
<input checked="" type="checkbox"/>	Order		
<input type="checkbox"/>	Aff. Posting		
<input type="checkbox"/>	Status Rpt		
<input checked="" type="checkbox"/>	UCCJEA		
<input type="checkbox"/>	Citation		
<input type="checkbox"/>	FTB Notice		
			Reviewed by: skc Reviewed on: 3-12-13 Updates: Recommendation: File 10 – O'Bannon

Second Amended Petition for Letters of Administration

DOD: 11-29-12		TOM STEINGRABER , Brother, is Petitioner and requests appointment as Administrator with Full IAEA without bond. All heirs waive bond Full IAEA – ok Decedent died intestate Residence: Fresno Publication: Fresno Business Journal Estimated value of estate: Personal property: \$350,000.00 Real property: \$138,000.00 Total: \$488,000.00 Probate Referee: Steven Diebert	NEEDS/PROBLEMS/COMMENTS: 1. Proof of service does not indicate the date that Notice of Hearing was mailed to the heirs. Need clarification. <u>Note:</u> If the petition is granted status hearings will be set as follows: • Friday, 08/16/2013 at 9:00a.m. in Dept. 303 for the filing of the inventory and appraisal and • Friday, 05/16/2014 at 9:00a.m. in Dept. 303 for the filing of the first account or petition for final distribution. Pursuant to Local Rule 7.5 if the required documents are filed 10 days prior to the hearings on the matter the status hearing will come off calendar and no appearance will be required.	
Cont. from 030613				
<input type="checkbox"/>	Aff.Sub.Wit.			
<input checked="" type="checkbox"/>	Verified			
<input type="checkbox"/>	Inventory			
<input type="checkbox"/>	PTC			
<input type="checkbox"/>	Not.Cred.			
<input checked="" type="checkbox"/>	Notice of Hrg			
<input checked="" type="checkbox"/>	Aff.Mail			W
<input checked="" type="checkbox"/>	Aff.Pub.			
<input type="checkbox"/>	Sp.Ntc.			
<input type="checkbox"/>	Pers.Serv.			
<input type="checkbox"/>	Conf. Screen			
<input checked="" type="checkbox"/>	Letters			
<input checked="" type="checkbox"/>	Duties/Supp			
<input type="checkbox"/>	Objections			
<input type="checkbox"/>	Video Receipt			
<input type="checkbox"/>	CI Report			
<input type="checkbox"/>	9202			
<input checked="" type="checkbox"/>	Order			
<input type="checkbox"/>	Aff. Posting			
<input type="checkbox"/>	Status Rpt			
<input type="checkbox"/>	UCCJEA			
<input type="checkbox"/>	Citation			
<input type="checkbox"/>	FTB Notice			
Reviewed by: skc				
Reviewed on: 3-13-13				
Updates: 3-18-13				
Recommendation:				
File 11 – Steingraber				

1A Mark T. Felmus (CONS/E)
 Atty Wright, Janet L (for Petitioner, Jeremy Felmus)
 Atty Keeler, William ((for Petitioner, Jeremy Felmus)
 Atty Poochigian, Mark S. (for Proposed Conservatee Mark T. Felmus)

Case No. 13CEPR00104

Petition for Appointment of Temporary Conservatorship of the Estate

Age: 62 years		<u>Temporary Expires on 3/20/13</u>		NEEDS/PROBLEMS/ COMMENTS:	
		<u>General Hearing 3/21/13</u>			
		JEREMY FELMUS, son, is petitioner and requests the PUBLIC GUARDIAN be appointed as conservator of the estate.		This matter will be heard at 1:30 p.m. Continued from 3/8/13. Minute order from 2/21/13 states the temporary appointment of the Public Guardian as conservator of the estate is extended to 3/8/13. The court orders that the Public Guardian not take any action to void any ownership interests in the West Bluff property. In addition, the Public Guardian is ordered not to take control of any funds that come to Mark T. Felmus without further order of the Court. The Court orders that there be no gifting of any new assets without further court hearing. The court further orders that there be no distribution of the Lincoln National Life Insurance proceeds and that Lincoln National continued to hold such proceeds. Counsel is directed to prepare the order. Court Investigator Advised Rights on 2/11/13. 1. Letters of Temporary Conservatorship have not issued.	
Cont. from 022113, 030813		<u>Estimated value of the estate:</u>			
	Aff.Sub.Wit.	Personal property	- \$500,000.00		
✓	Verified	Annual income-	<u>\$228,000.00</u>		
	Inventory	Total	- \$728,000.00		
	PTC	Petitioner states is 62 years old. For the past 3-4 years the proposed conservatee has had daily caregiving to assist him with is Activities of Daily living, including assisting him with bathing, dressing, meal preparation, transportation, supervision and administration of his medications. In late 2011, the proposed conservatee met his 47 year old, on again/off again girlfriend Jamie Piearcy. Petitioner believes that since that time Ms. Piearcy has engaged in a pattern of conduct designed to isolate the proposed conservatee from Petitioner and Petitioner's wife, Jessica, in order take advantage of his cognitive state for her personal financial gain to the unconscionable detriment of the proposed conservatee, including changing the locks on the proposed conservatee's home to prevent the Petitioner from checking on his father, discouraging or prohibiting contact between the Petitioner and the proposed conservatee, prohibiting the proposed conservatee from golfing at Copper River Country Club because that is where Mrs. Piearcy's spouse plays golf, taking over management of the proposed conservatee's finances, unduly influencing the proposed conservatee to transfer a ½ interest in his personal residence to her, unduly influencing the proposed conservatee to assign or allow Ms. Piearcy to collect his beneficial interest in a life insurance policy in the amount of \$500,000.00 and influencing the proposed conservatee to change his legal representation regarding his estate planning matters.			
	Not.Cred.				
✓	Notice of Hrg				
✓	Aff.Mail				W/
	Aff.Pub.				
	Sp.Ntc.				
✓	Pers.Serv.			W/	
	Conf. Screen				
	Letters			X	
	Duties/Supp				
	Objections				
	Video Receipt				
✓	CI Report				
	9202				
	Order	X			
	Aff. Posting				
	Status Rpt				
	UCCJEA				
	Citation				
	FTB Notice				
Please see additional page					

1A

Objections to Petition for Appointment of Temporary Conservator filed 2/20/13 by Proposed Conservatee Mark T. Felmus states appointment of a conservator of the estate is unnecessary because Objector is completely able to manage his own financial resources and resist fraud and undue influence.

The appointment of the Public Guardian as conservator of the estate is not in the best interests of the proposed conservatee. To the extent that the court determines that a conservator of the estate should be appointed, Objector hereby nominates Jamie Piearcy as such conservator of his estate, and if the court determines that a different conservator of the estate should be appointed, Objector hereby reserves the right to nominate another conservator of the estate that would be in the best interest of the proposed conservatee.

Objector alleges this is a straightforward case of a son not approving of his father's fiancée and nothing more. There is nothing in this case that suggests the need for a conservatorship.

Dr. Felmus's personal treating physician, Patrick A. Golden, M.D. and his longtime psychiatrist, Dwight D. Sievert, M.D., both have expressed their willingness to assist him in defending against the conservatorship petition. Dr. Sievert and Dr. Golden have both completed a Capacity Declaration, in which neither doctor indicated any apparent impairment in Dr. Felmus's mental functions.

Objector states the Petitions for Appointment of Temporary and Permanent Conservatorship are largely focused upon two transactions, i.e. (i) the transfer of a ½ interest in Dr. Felmus's residence to Ms. Piearcy, and (ii) the assignment of the proceeds of a life insurance policy payable to Dr. Felmus to Ms. Piearcy. It was entirely within Dr. Felmus's right to enter into these transactions which he has very reasonable explanations:

- A. On or about 8/27/12 Dr. Felmus conveyed an undivided ½ interest in his residence to Ms. Piearcy. This was entirely within Dr. Felmus's right. Dr. Felmus has explained that he was aware of his own mortality, and was concerned that if he died, Jeremy would "fight [Ms. Piearcy] for the residence. Dr. Felmus's concern in this area was apparently well placed given Jeremy's subsequent filing of the conservatorship petitions.
- B. After Dr. Felmus's mother died in November 2012, the trustee of her inter vivos revocable trust indicated that he wanted to use the proceeds of the life insurance policy – of which Dr. Felmus was the owner and sole beneficiary – to pay estate taxes owing as a result of his mother's death. Dr. Felmus was concerned that the Trustee would attempt to take control of those funds, so Dr. Felmus assigned the proceeds from such policy to Ms. Piearcy. Again, Dr. Felmus's concern was well placed, as the trustee apparently told the court investigator that "only the [the trustee] should have been able to claim the insurance policy on Dr. Felmus's behalf."

Dr. Felmus having established a revocable trust, and having executed a Durable Power of Attorney, establishment of a conservatorship of his estate is not the least restrictive alternative needed for the protection of the conservatee, such that no conservatorship should be granted.

Please see additional page

Objections to Petition for Appointment of Temporary Conservator (faxed copy, original to follow) filed by Proposed Conservatee Mark T. Felmus (continued):

Objector hereby demands a jury trial on all issues triable by a jury.

Objector requests that:

1. The Petition of Jeremy Felmus for appointment of a conservator of the estate of Mark T. Felmus be denied.
2. The Petition of Jeremy Felmus for the appointment of the Fresno County Public Guardian as conservator of the estate of Mark T. Felmus be denied.

Supplemental Declaration of Jeremy Felmus in Support of Petition for Appointment of Temporary Conservatorship of the Estate filed on 2/20/13.

Court Investigator Samantha Henson's Report filed on 2/13/13.

Order appointing Temporary Conservator dated 2/7/13 contains additional orders as follows:

- All Durable Powers of Attorney executed by Mark T. Felmus nominating Jamie Piercy as his agent or attorney in fact are revoked.
- The Conservator of the Estate has the power to inquire as to the status of the payment under Lincoln National Life Insurance Company life insurance policy insuring the life of Ruth Felmus owned by Mark T. Felmus, to take the following actions:
 1. If the proceeds are still held by Lincoln National, to either request distribution to the Conservator of the Estate on behalf of Mark T. Felmus and hold them for the proposed conservatee's benefit; or
 2. If the proceeds have been collected, to take all necessary actions to obtain possession and control of the proceeds.
- Any assignment of the insurance proceeds from Lincoln National Life Insurance Company life insurance policy owned by Mark T. Felmus to another, including without limitation, Jamie Piercy, is invalid or void.
- The proposed conservatee's transfer of a ½ interest in the proposed conservatee's personal residence to Jamie Piercy is void and 100% ownership is returned to the name of Mark T. Felmus.

Please see additional page

Order After Hearing February 21, 2013 amends the Ex Parte Order dated 2/7/13 as follows:

- The Fresno County Public Guardian shall take no action to void or invalidate the Conservatee's transfer of a ½ interest in the proposed conservatee's residence at 2555 W. Bluff.
- The Fresno County Public Guardian shall record its Letters of Temporary Conservatorship in the chain of title regarding the 2555 W. Bluff property.
- There shall be no distribution of the life insurance proceeds held by Lincoln National Life Insurance Company regarding the policy insuring the life of Ruth Felmus and owned by Mark T. Felmus until further order of the court.
- Until further Order of the Court, the Fresno County Public Guardian shall take no action to marshal the Conservatee's monthly Social Security, disability or pension income.
- Until further Order of the Court, the Temporary Conservatee, shall not make any gifts to anyone of any new assets received by him, including but not limited to, by gift, inheritance, or distribution from a trust or other account or asset funded by Ruth Felmus, during the period the Court order is in effect. Nothing in this paragraph shall preclude the Temporary Conservatee from making gifts from income received by him in the normal course, such as from the Temporary Conservatee's monthly income, retirement, and disability payments.

Motion for Reconsideration of Order Granting Temporary Conservatorship

Age: 62 years		<p>MARK T. FELMUS, conservatee, is petitioner.</p> <p>JEREMY FELMUS, conservatee's son, filed a petition for appointment of the PUBLIC GUARDIAN as temporary conservator of the Estate. Letters to expire on 2/21/13.</p> <p>On 2/7/13 the Court granted the Petition ex parte.</p> <p>2/13/13 MARK T. FELMUS filed a Motion for Reconsideration of the Order Granting the Temporary Conservatorship and Advancing the Hearing and Shortening Time for Notice.</p> <p>Order dated 2/13/13 states: The Ex Parte Application for Order Advancing the Hearing and Shortening Time on Motion for Reconsideration is granted as follows:</p> <ol style="list-style-type: none"> 1. The Motion for Reconsideration of Order Granting Temporary Conservatorship filed on 2/13/13 by Mark T. Felmus shall be heard on 2/21/13 at 9:00 a.m. in Dept. 303m concomitantly with the Petition for Appointment of Temporary Conservator filed on 2/6/13 by Jeremy Felmus. 2. Notice of the Motion for Reconsideration of Order Granting Temporary Conservatorship shall be served on all interested parties 5 days prior to the 2/21/13 advanced hearing date. 3. Order Appointing Temporary Conservator of the Estate granted ex parte on 2/7/13 remains in effect until the hearing on 2/21/13. <p>Petitioner's Opposition to Conservatee's Ex Parte Application for an Order Advancing the Hearing and Shortening Time for Notice filed on 2/13/13 requests that the court deny the Conservatee's motion and allow the hearing occurring on 2/21/13 to occur as originally scheduled.</p>	<p>NEEDS/PROBLEMS/COMMENTS:</p> <p>This matter will be heard at 1:30 p.m.</p> <p>Continued from 3/8/13.</p>
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